

REMARKS

This application has been amended in response to the Office Action mailed November 10, 2005, in order to place the claims in form for allowance. In particular, claim 1 has been canceled in this Amendment, claims 12-14 having previously been canceled, and claims 2, 4, 5, 8-11, 15-20, and 22 have been amended, the other remaining claims either being original claims or having been previously presented.

In the Office Action the Examiner rejected claims 17 and 18 under 35 U.S.C. §112. Claim 17 has been amended in paragraph (d) to provide a proper antecedent basis for the phrases “said channel” and “said side walls,” appearing at line 17 of the claim as it was presented previously. Accordingly, rejection under 35 U.S.C. §112 should be withdrawn with respect to claim 17 and also with respect to claim 18, which depends from claim 17.

Claims 1-4 and 15-19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berg, et al., U.S. Patent No. 5,745,997, in view of James, U.S. Patent No. 2,310,959. In response, claim 1 has been canceled, and claim 2 has been amended to be independent and to contain all of the limitations of canceled claim 1. Claim 2 has also been amended to define the present invention more specifically by reciting that the tang of the blade carrier “includes a main portion in a first plane and a leg extending laterally from said main portion in a second plane normal to said first plane.” The Examiner appears to read “leg,” as previously recited in claim 2, as satisfied by the handle extension stop 132 mentioned at the top of column 8 of the Berg patent, but there is no suggestion of a leg extending laterally from the main portion of the tang of the Berg scissors cited by the Examiner. Furthermore, the handle extension stop 132 disclosed in Berg does not rest against an abutment face included in the related handle. Instead, there is a spring 104 carried in the handle, and the handle extension stop 132 comes to rest against the spring tip 114 of the spring 104 when the handle is extended with respect to the blade. Finally, while James shows a replaceable cutter in a pruning shear, Berg teaches a folding multipurpose tool small enough to be carried easily in one’s pocket, and there is no teaching in either Berg or James of how a replaceable sharpened cutter could be provided consistent with the small size taught by Berg.

In view of the distinctions mentioned above, it is submitted that claim 2 is not suggested by the cited combination of Berg and James, and that claim 2 should be found allowable.

Claims 3-8 and 11 all depend from claim 2 and should therefore also be allowed.

Claims 15-19 were also rejected as unpatentable over Berg in view of James. Claim 15 has been amended by changing the term "blade assembly" to read "blade," and also has been amended to distinguish the claimed subassembly patentably from the cited combination of Berg and James by reciting in paragraph (b) that the claimed subassembly includes a blade defining a blade plane and including a blade base having a tang, and by reciting in paragraph (g) that the subassembly includes a leg extending laterally from the tang "in a plane normal to said blade plane." In Berg the handle extension stop 132, as discussed above with respect to claim 2, fails to suggest a combination in which a tang of a blade includes a leg extending laterally in a plane normal to a blade plane. Accordingly, it is submitted that the combination defined by claim 15 is not suggested by Berg in view of James, and that claim 15 should now be allowed.

Claim 16 should be allowable because it depends from claim 15. Claim 16 has been amended to agree with claim 15, reversing the previous amendment of claim 16. Claim 15 recites that the first handle is interconnected with the tang of the blade in a first handle pivot joint. Claim 16 thus again correctly recites that the first handle includes a channel and that the abutment face is a part of the base of that channel. Since Berg does not disclose a handle having a channel of which a channel base includes an abutment face as recited in claim 16, claim 16 further distinguishes the claimed subassembly over the combination of Berg in view of James and also should be found allowable for that reason.

Claim 17 has been amended by changing the term "blade assembly" to "blade" and to recite that the first handle pivot joint interconnects "said first handle with said tang" thus more specifically defining the location of the first handle pivot joint. Claim 17 has also been amended to recite more specifically that the leg extends "laterally" from the tang and "extend[s] along and [is] engaged against and in contact with said abutment face. . ." While the Examiner takes the position that having a width is the same as extending laterally parallel to the channel base, claim 17, as amended, recites that the leg extends laterally from the tang. Since something can't

extend from itself merely by having a width, as asserted by the Examiner, it is submitted that claim 17 clearly defines an arrangement not suggested by the Berg scissors, where the only lateral extent is the thickness of the blade. Accordingly, it is submitted that claim 17 should be allowed.

Claim 18 depends from claim 17 and should be found allowable for the same reasons. Additionally, claim 18 recites that a single piece of sheet metal includes the leg and the blade tang, and that the leg is oriented in a plane at an appropriate angle to a plane including the tang. Claim 18 thereby further distinguishes the claimed subassembly from the combination of Berg in view of James, and should be allowed.

Claim 19 depends from claim 15 and has also been amended to again correctly refer to the first handle with respect to the abutment face. Claim 19 also recites that the leg “extends laterally at an angle away from said main portion and is aligned with said abutment face.” Claim 19 should be found allowable as depending from allowable claim 15, and also for the reasons just set forth.

Claims 5, 6, 7, and 20-27 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berg in view of the Pocket Gardener, item FN listed in the Information Disclosure Statement filed in August 2005.

As previously mentioned, claims 5, 6, and 7 depend from claim 2, which should be allowed, and therefore claims 5-7 should also be allowable. Additionally, claim 5 defines the handles of the claimed subassembly as having “cushioning portions of an elastomeric material overlying and extending along a margin of each side wall of the channel of one of the handles, so as to cover said margin and present said elastic material along said margin for comfortable contact with a user’s hand.”

While the Pocket Gardener has handles including metal channels around which a hard plastic cover and rubber cushioning element are attached, neither the hard plastic material nor the rubber material overlie the margin of the channel as recited in claim 5. The Examiner’s position that the outer faces of the channel side walls are a margin is incompatible with the ordinary

meaning of the word “margin,” and particularly is incompatible with the use of the term margin of the side wall in reference to the particular part of the side wall indicated by reference numeral 200, as discussed in the specification on page 13, at lines 2-6 and shown in FIGS. 21 and 23, and is similarly incompatible with use of the term outer margins of the shell layers 198 and 199 in reference to the particular part of the shell layers indicated by reference numeral 206, as described on page 13 at lines 17 through 31 and illustrated in FIGS. 21, 22, and 23.

While rubber-like cushioning material on the Pocket Gardener is available to provide comfort for a user’s hand while one of the folding blades, such as the swallow tail weeder, knife blade, or weeding hook, is in use, the cushioning material has no cushioning effect with respect to the margins of the handle channels during use of the pruning shear included in the Pocket Gardener.

As is shown best in the labeled image on page 9/13 of IDS item FN, a photograph of the Pocket Gardener tool, the hard plastic portion of the handle of the Pocket Gardener merely lies alongside one of the side walls of the metal channel, leaving the margin, that is, the narrow, transversely oriented surface, or edge, of the metal channel, exposed and uncushioned, so as to press against the fingers or palm of the hand of a user squeezing the handles together to use the pruning shears. There is no suggestion by such construction of a cushioning portion extending along and cushioning the outer margins of the channel as recited in claim 5. Accordingly, claim 5 should be allowed, together with claims 6 and 7, which depend from claim 5.

Claims 6 and 7 more specifically define the configuration of the cushioning portions and the rigid plastic shell layer and the manner of their manufacture not suggested by the Pocket Gardener. Accordingly, claims 6 and 7 should be allowed for those reasons as well as because they depend from allowable claim 5.

Claim 20 has been amended to define the present invention more clearly by reciting that the handles define channels having side walls facing inwardly toward each other when the handles are folded and “facing outwardly apart from each other when said handles are extended with respect to said jaw in said blade.” Claim 20 also recites that each of the side walls of one of the handles “includes cushioning portions of elastic material attached thereto, said cushioning

portions covering at least part of a respective margin of each of said side walls and facing outwardly when said handles are extended, so as to provide cushioning of said margins of said side walls for a user's hand gripping said handle." While the orientation of the channels of the handles of the Pocket Gardener is similar to that recited in claim 20, the Pocket Gardener neither includes nor suggests inclusion of cushioning portions of elastomeric material covering any of the margin of any of the side walls of the channel and facing outwardly so as to provide cushioning along the margins for a user's hand. Instead, as described above with respect to claim 5, a hard plastic covering of the side wall of the channel extends up to, but lies only alongside, and not in a cushioning position covering, the margin of the channel side wall. Thus there is no suggestion of cushioning portions covering the margins of the side walls as recited in claim 20. Accordingly, the rejection under 35 U.S.C. §103(a) should be withdrawn and claim 20 should be found allowable.

Claim 21 depends from claim 20 and should be found allowable for the same reason.

Claim 22 is directed to the provision of a spring within a cavity defined in the jaw of the claimed cutting tool subassembly, and neither Berg nor the Pocket Gardener discloses any such arrangement. Apparently, claim 22 was not intended by the Examiner to be grouped with claims 20-21 and 23-27, and rejection under 35 U.S.C. §103(a) on the basis of Berg in view of the Pocket Gardener should be withdrawn with respect to claim 22.

Claim 23 is directed to a handle and requires a shell layer of a rigid plastics material attached to an exterior surface of a side wall and a cushioning portion attached to the shell layer and extending along and covering at least a portion of the elongate margin of one of the side walls. As discussed above with respect to claims 5 and 20, the Pocket Gardener does not suggest such a cushioning portion extending along and covering the margin of a side wall of a metal channel, and claim 23 should therefore be allowed.

While the Examiner is entitled to read the claim in its broadest logical sense, the claim must be read consistent with the specification. Here the appropriate meaning of the word "margin" is clearly evident from the specification and the drawings and is clearly intended to differentiate from the broad, flat faces of the side walls 134, 196. The Examiner's interpretation

of the word “margin” is incompatible with the ordinary usage of the word, and the language of the claim should not be interpreted to include the main exterior side surface of the channel as urged by the Examiner.

Claims 24-27 depend from claim 23 and add particular limitations regarding the extent and location of the shell layer and the composition and location of the cushioning portion with respect to the shell layer, none of which are suggested by Berg in view of the Pocket Gardener. Accordingly, claims 23-27 should not have been rejected over Berg in view of the Pocket Gardener and should all be allowed.

Claim 8 was rejected as being unpatentable over Berg in view of Thompson. Since claim 8 depends from claim 2, which should be allowed, claim 8 should be allowed.

Claim 9 was rejected under 35 U.S.C. §103(a) as unpatentable over Berg in view of Seber. Claim 9 is directed to a subassembly for a folding hand tool including a pivoted shears-type combination of a blade assembly and a jaw. Seber discloses a fixed-blade knife whose blade includes a hook including a sharp-edged throat. However, while such a hook is thus clearly known in the prior art, there is no suggestion of the use of such a hook on a blade of a shears-type cutting tool in the prior art of record, let alone any prior use of such a hook in a shears-type cutting tool with a sharpened cutter and a jaw pivoted together and each also having a foldable handle attached thereto as defined by claim 9. Such a combination is suggested only by hindsight in view of the disclosure in the present application. Since there is no suggestion in the prior art to combine the hook on a knife blade as shown by Seber with the folding scissors of Berg as advanced by the Examiner, claim 9 should be found allowable.

Claims 10 and 22 were rejected as unpatentable over Berg in view of Mizutani, et al. Claims 10 and 22 are directed to the inclusion of a spring within a cavity defined within the blade pivot joint, and particularly within the jaw of the claimed cutting tool subassembly. While claim 10 requires a blade assembly, claim 22 requires only a blade having a tang and a sharpened edge, but the claims are otherwise generally similar. Both claim 10 and claim 22 have been amended to recite more specifically that the jaw includes a groove extending away from the cavity surrounding the blade pivot joint, and that a first of a pair of opposite ends of the spring

extends into the groove. These claims further require that the other of the opposite ends of the spring extends from the cavity to the second handle pivot joint. Mizutani, et al., disclose primarily a pair of scissors in which a spring is housed in a pair of facing cavities and each end of the spring is bent over and extends into an anchoring hole formed in the bottom of the cavity. Accordingly, the spring required in primary embodiment of the Mizutani, et al., tool is more complex. While Mizutani, et al., suggest that a simple U-shaped spring might be utilized, there is no disclosure by Mizutani, et al., of a groove to receive an end of such a spring, nor of an end of such a spring extending to a handle pivot joint. Accordingly, it is submitted that Berg, in view of Mizutani, et al., do not suggest the invention defined in claims 10 and 22 as amended, and that both claim 10 and claim 22 should therefore be allowed.

Claim 11 was rejected under 35 U.S.C. §103(a) as unpatentable over Berg in view of Rausse. Rausse discloses a handle lock for a pair of pruning shears whose handles are fixed with respect to the jaw and the sharpened blade. The handle lock is located at the outer end of the pair of fixed handles, and so there is no suggestion in Rausse of a blade safety lock carried on a pivot joint of a folding handle and engaging one of the jaw and the blade assembly as required by amended claim 11.

While the Pocket Gardener includes a blade safety lock that becomes engaged as the handles are folded about the pruning shear, the blade safety lock in the Pocket Gardener is attached on its own separate pivot, rather than being mounted on the handle pivot joint of one of the handles. Accordingly, claim 11 should be found allowable.

Since claim 11 depends from claim 2 it also should be found allowable for the same reason as claim 2.

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In light of the foregoing remarks and amendments, the Examiner is requested to reexamine the application, to allow claims 2-11 and 15-27, all of the claims remaining in the application, and to pass the application on promptly to issue.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Donald B. Haslett", with a long horizontal flourish extending to the right.

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